

**Applicant:** Mark Rentals, LLC

**Agent:** Garcia/Kraemer & Assoc.

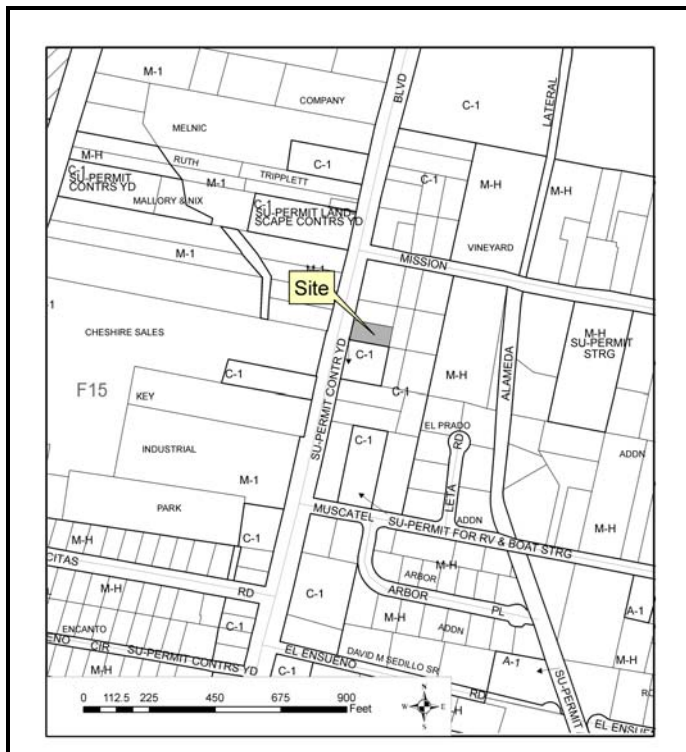
**Location:** 5908 Edith Blvd. NE

**Property Size:** .19 acres (approximately)

**Existing Zone:** C-1

**Proposed Zoning/SUP** Special Use Permit for Contractor's Yard

**Recommendation:** Deferral



**Summary:** This request is for a Special Use Permit for a Contractor's Yard on a .19 acre parcel on the east side of Edith Blvd. about 1000 feet north of Montano Rd. The property has but has received C-1 zoning Special Use Permits for a Contractor's Yard in (CSU-90-47, CSU-97-9). The most recent Special Use Permit expired in 2002, and the applicant is proposing to keep the site plan and uses similar to those under the previous Special Use Permit.

**Staff Planner:** Catherine VerEecke, Program Planner

**Attachments:**

1. Application
2. Land Use and Zoning Maps
3. Previous Special Use Permit Notice of Decision letter
4. Notices of Violation
5. Site Plan (Commissioners only)

Bernalillo County Departments and other agencies reviewed this application from 7/24/06 to 8/14/06. Their comments were used in preparation of this report, and begin on Page 9.

**AGENDA ITEM NO.: 12**  
**County Planning Commission**  
**September 6, 2006**

CSU-60035 Garcia/Kraemer & Associates, agent for Mark Rentals LLC, requests approval of a Special Use Permit for a Contractor's Yard on Lot 27B, Vineyard Addition 1, located at 5908 Edith Boulevard NE, on the east side of Edith Boulevard between Mission and Muscatel Avenues, zoned C-1, and containing approximately .19 acres. (F-15)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land use</b>
	C-1 (Special Use Permit for Contractor's Yard expired in 2002)	Contractor's Yard
<b>North</b>	C-1	Single Family Residential
<b>South</b>	C-1/Special Use Permit for Contractor's Yard	Contractor's Yard
<b>East</b>	C-1	Single Family Residential
<b>West</b>	M-1	Industrial Park

## **BACKGROUND:**

### **The Request**

This request is for a Special Use Permit for a Contractor's Yard on a .19 acre parcel located on the east of Edith Blvd. about approximately 200 feet south of Edith Blvd. The property has C-1 zoning. The property currently has one permanent structure on it.

In 1990, this property received a Special Use Permit for a Contractor's Yard (CSU-90-47) for a period of five years. In 1997, another Special Use Permit was issued for the property, with 11 conditions of approval, including another 5 year term of use (CSU-97-9) (See Attachment 3). This Special Use Permit expired on November 18, 2002 and was removed from the County Zone map in April 2004. In October 2005, a Notice of Violation letter was sent to the property owner that the use (open storage of materials) was being operated without a business license and without the proper zoning (Attachment 4). A criminal complaint has been filed against this property.

Request justification. The applicant is proposing to keep the existing uses on the site. In the response to Resolution 116-86, the applicant states that the proposed land use is consistent with other businesses in the area. He points out that the plan scenarios indicate that the location of the site has already developed mainly with light industrial and the property has had non-residential uses for many years.

### **Surrounding Land Uses and Zoning**

The vicinity of the site near Edith Blvd. north of Montano Rd. has a variety of uses. Generally, properties fronting on the east side of Edith Blvd. properties have C-1 zoning, though many appear not to be used for retail and have either heavy commercial uses or residential uses. Beyond these lots to the east, properties are located in small residential subdivisions with M-H zoning. A few properties on the east side of Edith Blvd. have Special Use Permits for more intense uses than allowed by the existing C-1 zoning. The property to the immediate south of the subject site has a Special Use Permit for a Contractor's Yard (CSU-87-42). Further south nearby the corner of Muscatel Rd. and Edith Blvd. a property has a Special Use Permit for RV and Boat Storage (CSU-50010).

On the west side of Edith Blvd., most properties now have M-1 zoning with light industrial uses, with the exception of a few residential properties with M-1 zoning and several properties with C-1 zoning. One of these has a Special Use Permit for a Landscape Contractor's Yard (CZ-40010).

## **APPLICABLE PLANS AND POLICIES:**

### **Albuquerque/Bernalillo County Comprehensive Plan**

The site is located in the Semi-Urban Area as delineated in the Albuquerque/Bernalillo Comprehensive Plan. The principal goal for this area is to "maintain the character and identity of semi-urban areas which have environmental, social or cultural conditions limiting urban land uses."

### **North Valley Area Plan**

This property is located within the Semi-Urban area of the North Valley Area Plan. The plan states that properties in this area may have special soil and water limitations or scenic, agricultural, or recreational assets, with the appropriate gross density at 1 to 3 dwelling units per acre.

Policy 2.3.c states that the City and County shall promote commercial development and redevelopment of existing commercially-zoned properties.

Policy 2d (Land Use) requires landscape buffering and other measures are necessary to limit potential impacts of non-residential uses on residential areas.

The property is also located in an area the Plan refers to as the Edith Blvd. corridor in a sub-area described as "rural-residential" between Osuna Rd. and Griegos Rd. However, the Plan does note that some locations within this area along Edith Blvd. have made a transition to manufacturing/heavy commercial uses. The Plan states that the "land use pattern should reflect the present zoning" (Appendix, p.4).

### **Bernalillo County Zoning Ordinance**

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. There was an error in the original zone map.
  - 2. Changed neighborhood or community conditions justify a change in land use or
  - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.

- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
  - 1. denied due to lack of capital funds; or
  - 2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a "strip zoning." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

#### **ANALYSIS:**

##### **Surrounding Land Use and Zoning**

The applicant has requested a new Special Use Permit for a Contractor's Yard for a property that has had such permits since the early 1990s. The most recent permit, CSU-97-9, expired several years ago, and the current property owner is now proposing to keep the site's uses and configuration essentially the same as under the previous permit.

The property has C-1 zoning, which does not allow the use that is located on the site. The existing use appears to be compatible with the heavy commercial and light industrial uses nearby the property along Edith Blvd., many which were established during the last twenty years under M-1 zoning or C-1 zoning with Special Use Permits. The property to the immediate south has a Special Use Permit for a Contractor's Yard. There appears to be however, residential dwellings to the immediate north, south, and east of the property, which

could be negatively impacted by the development, especially without the proper buffering. There also are several commercial uses under C-1 zoning or Special Use Permits that are less intense than the proposed contractor's yard use.

### **Plans**

This property is located in the Semi-Urban Area. The Comprehensive Plan and the North Valley Area Plan suggest that this Area should retain its semi-rural, residential character and should not allow new permanent zone changes or special use permits for industrial or heavy commercial uses. However, the North Valley Area Plan does state in the Plan Scenarios that existing commercially-zoned properties may be developed or redeveloped with commercial uses, and it recognizes that parts of Edith Blvd. to the south of Osuna Rd. already have existing heavy commercial and light industrial uses.

### **Zoning Ordinance**

It appears that this request is consistent with Resolution 116-86 of the Zoning Ordinance in that the particular use does not appear to have had a significant impact on adjacent properties, which have both residential and non residential uses on them, and would be consistent with other uses in the area. It appears that 'changed neighborhood conditions' can be used as a justification for this request as there has a number of similar type uses have been established in the area. The request also appears to be consistent with the North Valley Area Plan policies that support the redevelopment of existing commercially-zoned properties.

### **Agency Comments**

County staff and representatives from other agencies have provided comments on this case. The Zoning Administrator noted that the site plan appears to comply with landscaping and parking requirements of the County Zoning Ordinance but that clarification is needed regarding the type of surfacing that will be used for the off-street parking spaces (concrete or other bituminous material - Sec. 21.D.). Public Works comments indicate that access into the site off Edith Blvd. as shown on the site plan may not be adequate. The existing drivepad width needs to be widened to 30 feet to meet the Bernillo County Street Standards drivepad width requirement for access off a road designated as "Collector" and a 30 foot wide by 25 foot in depth asphalt apron be placed at the site entrance, adjacent to the sidewalk, to help prevent dirt and debris from being tracked onto Edith Boulevard.

Environmental Health staff noted during a visit to the site that that there are various types of debris and containers located on the site. The applicant could correct this by cleaning the site and revising the site plan to reflect the current activities.

Planning staff also notes that the site plan does not reflect the current activities on the site as follows:

1. There currently are two portable storage buildings on the site when only one is shown on the site plan;
2. The current fencing (chain link, chain link and draped) is not shown on the site plan. Solid fencing should be required for the property lines (west, east, south) that abut residential uses to replace the chain link fence;

3. The application states the site is being used for a landscape contractor's yard, but it being used for storage of a large amount of debris and materials that is not shown on the site plan (is in the area designated for parking); and
4. Clarify where the adjacent uses are residential and provide the required landscape buffering and fencing.

### Analysis Summary

Zoning	
Resolution 116-86	There appears to be changed neighborhood conditions. Use is consistent with other nearby uses along Edith Blvd.
Requirements	Comply with code requirements for landscaping, fencing.
Other	Site plan does not reflect activities on the site.
Plans	
Comprehensive Plan	Use may not be consistent with Semi-Urban Area designation.
Area Plan	Use may be consistent with North Valley Area Plan policies and scenario regarding development of commercial properties.
Other Requirements	
Environmental Health	Has sewer and water accounts.
Public Works	Need to improve/widen driveway access.

### Conclusion

In conclusion, it appears that the renewal of the Special Use Permit for a Contractor's Yard could be appropriate in this instance. The uses could have limited impact on the area and would be relatively consistent with policies in the North Valley Area Plan regarding the redevelopment of commercially-zoned properties. Conditions of approval could help mitigate the impacts of the use on the nearby residential properties.

However, as noted above, there are still issues with the accuracy of the site plan, compliance with Public Works requirements, and with various types debris on the site.

Staff is therefore recommending deferral of this request until these issues are adequately addressed.

**FINDINGS:**

1. This request is for approval of a Special Use Permit for a Contractor's Yard on Lot 27B, Vineyard Addition 1, located at 5908 Edith Boulevard NE, on the east side of Edith Boulevard between Mission and Muscatel Avenues, zoned C-1, and containing approximately .19 acres.
2. The property is zoned C-1 and is located in the Semi-Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and the North Valley Area Plan.
3. The applicant's site plan does not accurately depict the activities currently on the site, when Section 18.C.1 of the Zoning Ordinance states that incorrect or incomplete information may be cause for denial or deferral.

DEFERRAL, based on the above Findings.

Catherine VerEecke  
Program Planner



## **BERNALILLO COUNTY DEPARTMENT COMMENTS**

### **Building Department:**

No comments received.

### **Environmental Health:**

Water and sewer acct. # 23013536 is connected to the property.

The property is in need of a major clean-up. There exists on-site, as is evidenced with photos; many drums of unknown substances, pallets [vector harborage], piles of wood [not lumber], small containers [paint cans?], various types of debris in piles. This property must be cleaned up and kept in a clean and manageable manner.

The photos taken are from the street level and not from inside the yard. I was not able to go inside the property because the gate is always locked with a chain and padlock. Not able to make a complete analysis because of access problems.

### **Zoning Enforcement Manager:**

Must comply with all Bernalillo County Code regulations for this project.

Currently there are violations on the property, operating w/o proper permits as a contractor's yard, violations date back to 1998. A criminal complaint is on file pending outcome of special use hearing.

### **Zoning Administrator**

ZA REVIEW

08/AUG/2006

#### **COMMENTS RELATING TO THE PROPOSED USE**

The storage, rental or sale of contractor's equipment is first listed as a permissive use in the C-LI zone, and is also listed as such in the M-1. The M-2 zone allows all M-1 uses permissively.

Similarly, the following terms are also defined in Section 5 of the ordinance:

**Contractor.** One that contacts or is a party to a contract, one that contracts to perform work or provide services or supplies on a large scale including but not limited to a general contractor, road contractor, lath and plaster contractor, plumbing contractor, and truck hauling.

**Contractor's Yard.** A premises where equipment, materials and supplies are stored, kept and/or maintained in connection with a contracting operation.

This type of use is often recognized as needing sufficient mitigation methods to reduce the likelihood of adverse impact on surrounding properties, especially residential uses. These include screening by way of a solid fence or wall, sufficient landscaping to create a visual buffer, surfacing of parking areas, and limits on related uses such as signage, equipment/material storage locations, and hours of operation.

**COMMENTS RELATING TO THE SITE PLAN**

The provided landscaping plan appears to sufficiently meet the necessary requirements for buffer width, vegetation coverage, and planting types. The site plan also appears to meet the submittal requirements, and only needs clarification regarding the type of surfacing that will be used for the off-street parking spaces (concrete or other bituminous material - Sec. 21.D.) and specifics on any existing or proposed signs to be used in connection with the activity (C-1 limitations recommended). The bicycle rack requirement can be waived at this time.

**Fire:**

No comment received

**Public Works:**

**DRAN:**

No comments received.

**DRE:**

1. Show the right-of-way width of Edith Boulevard on the site plan.
2. The drivepad width needs to be widened to 30 feet to meet the Bernilillo County Street Standards drivepad width requirement for access off a road designated as "Collector".
3. Public Works will require a that a 30 foot wide by 25 foot in depth asphalt apron be placed at the site entrance, adjacent to the sidewalk, to help prevent dirt and debris from being tracked onto Edith Boulevard.

**Parks & Recreation:**

REVIEWED, NO ADVERSE COMMENT.

**Sheriff's:**

No comment received

**COMMENTS FROM OTHER AGENCIES**

**MRCOG:**

No comment.

**AMAFCA:**

No comment.

**City Planning Department:**

No comments received.

**City Public Works:**

Transportation Planning: No comments received.

Transportation Development: No adverse comments.

Water Resources:. No adverse comments.

City Transit:  
no objections.

City Environmental Health:  
No comments received.

City Open Space:  
Open Space does not have any comments regarding projects to be heard on  
September 6, 2006.

NMDOT  
No comments.

APS  
The request for a special use permit for a landscaping contractor's year at  
5908 Edith Blvd NE will have no adverse impacts to the APS district.

**NEIGHBORHOOD ASSOCIATIONS:**  
North Edith Corridor Association